REMARKS

I. INTRODUCTION

Currently Claims 1-30 are pending. Claims 1-30 have been rejected.

Independent Claims 1, 11, and 21 have been amended to remove a redundant limitation, as the "warm and serve variety" limitation already includes the limitation that the pasta does not require rehydration before consumption. Support for this amendment may be found in the specification at page 14, lines 11-15.

II. CLAIMS

Claims 1-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bajracharya et al. (U.S. Patent No. 6,001,405) in view of Taylor (U.S. Patent No. 4,597,972) and Nauth et al. (U.S. Patent No. 6,110,509).

Independent Claims 1, 11, and 21 each contain limitations directed to a fully cooked, fully hydrated pasta composition that is of the warm and serve variety.[1] Bajracharya, either alone or in combination with Taylor and Nauth, does not disclose these features, nor does it make these features obvious to one skilled in the art. Instead, Bajracharya discloses a partially cooked, partially dried pasta that requires both cooking and rehydration prior to consumption by the consumer and is not a pasta of the warm and serve variety.

Applicants respectfully disagree with Examiner's assertion that Bajracharya discloses a "fully hydrated" product. On the contrary, Bajracharya specifically discloses that the pasta is partially dried (see Bajracharya, column 2, lines 64 *et seq.*)

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[1]Independent Claim 1, as amended, recites a "fully cooked, fully hydrated, stabilized pasta composition comprising ... wherein the fully cooked, fully hydrated, stabilized pasta composition is of the warm and serve variety." Independent Claim 11, as amended, recites a "method of making a fully cooked, fully hydrated, stabilized pasta composition, ... wherein the fully cooked, fully hydrated, stabilized pasta composition is of the warm and serve variety." Independent Claim 21, as amended, recites a "method of inhibiting the growth of pathogenic microorganisms in a fully cooked, fully hydrated, stabilized pasta composition, ... wherein the fully cooked, fully hydrated, stabilized pasta composition is of the warm and serve variety."

and that rehydration of the pasta is required prior to consumption (see Bajracharya, column 1, lines 42-44). In fact, Bajracharya specifies that the partial drying of the pasta is necessary to obtain the desired shelf life (see Bajracharya, column 3, lines 21-26). Bajracharya discloses that the original, undried pasta has "a moisture content of from 55 to 70% by weight" and that the pasta is dried "to a moisture content of from 40 to 55%, preferably from 40 to 50%" in order to achieve the desired shelf life (see Bajracharya, column 3, lines 21-26). Bajracharya goes on to disclose that the pasta is prepared for consumption by rehydrating the product such that the moisture content is about 65% (see Bajracharya, column 4, lines 27-29). In fact, as Examiner points out "Bajracharya et al discloses the product requires rehydration before consumption" (Office Action, page 3). Thus, Bajracharya, by its own terms, cannot disclose a fully hydrated pasta composition, since the Bajracharya product requires rehydration prior to consumption.

Examiner points to Applicants specification (page 11) for the assertion that the Bajracharya product is fully hydrated because its moisture content after drying is 40-55%. However, moisture content does not determine whether a product is fully hydrated. Rather, a product may be fully hydrated only where it requires no further hydration, or rehydration, prior to consumption. As discussed above, Bajracharya requires rehydration prior to consumption and therefore cannot be a "fully hydrated" product. Additionally, since the Bajracharya product has been partially dried, the partially dried pasta would not have desirable "mouth-feel" or organoleptic qualities until after the pasta has been rehydrated, as the pasta would be tougher and more "rubbery" than fully hydrated pasta.

Contrary to Bajracharya, the present invention is a fully hydrated pasta composition which requires no additional hydration or rehydration prior to consumption. That is, the present invention produces a fully hydrated pasta product which is immediately edible to the consumer, straight out of the package. Since the present pasta is fully hydrated, the consumer may eat the pasta after merely warming the pasta to the desired temperature – no rehydration is required and no water must be added to the pasta product prior to consumption. Due to this

fact, the pasta composition may be provided to the consumer in a package containing both the pasta itself and the desired pasta sauce (see specification, page 8, lines 6-8). The inclusion of the pasta with the pasta sauce would not be possible if further rehydration of the pasta was required before consumption, as any water added to the pasta composition would dilute the pasta sauce and result in an inedible, or less desirable, pasta dish. Therefore, if the consumer of pasta which requires rehydration, such as the Bajracharya product, wishes to eat the pasta with pasta sauce, the pasta sauce must be prepared separately and added to the pasta after the pasta has been rehydrated. Likewise, if the pasta composition and the sauce are packaged separately for sale, the pasta and sauce may be mixed prior to heating, such that only one heating is required to heat both the pasta and the sauce instead of the two heatings required for the Bajracharya product (one for the rehydration of the pasta and a second one for the sauce). Furthermore, since the pasta composition of the present invention does not have to be dried during production, processing time and costs associated therewith are saved, while the pasta product of the present invention attains the disclosed shelf life without partial drying or any other drying step during processing.

The fact that the pasta composition of the present invention is fully hydrated also significantly reduces the preparation time required by the consumer. The consumer need only heat the pasta composition of the present invention to the temperature desired by the consumer (or need not be heated at all if the consumer desires to eat the pasta cold or if the product is intended to be a cold pasta salad) prior to consumption. Most commonly, this could be done through a short heating in a microwave, although other methods may also be used. In contrast, in order to rehydrate a pasta that is not fully hydrated, such as the pasta disclosed by Bajracharya, the consumer must bring water to a boil, boil the pasta for a time sufficient to rehydrate it, drain the water, and then allow the pasta to cool to a temperature which is low enough to allow the pasta to be consumed without burning the consumer's mouth or until the pasta is cold (if the consumer desires to eat the pasta cold).

Bajracharya does not disclose a fully cooked pasta. Instead, Bajracharya specifically states that "[t]he filled pasta of the present invention is not a 'ready to eat' pasta but it requires a short period of cooking and rehydration for consumption" (see Bajracharya, column 1, lines 42-44) (emphasis added). Hence, while the Bajracharya product is partially cooked, it requires additionally cooking prior to consumption by the consumer. In contrast, the pasta composition of the present invention requires no additional cooking prior to consumption and, indeed, the pasta composition need only be heated to the temperature desired by the consumer, which would likely be well below the temperature required to further cook the pasta composition. Since no further cooking is required, the heating of the pasta composition of the present invention may be done much more quickly and to a much lower temperature than that required to actually cook the pasta composition.

Finally, in direct contrast to the present invention, Bajracharya discloses only a "pre-cooked, high moisture" pasta (see Bajracharya, column 1, lines 35-37) which requires both further cooking and rehydration before it is ready for consumption (see Bajracharya, column 1, lines 42-44). More specifically, Bajracharya explicitly discloses a pasta which "is not a 'ready to eat' pasta" (see Bajracharya, column 1, lines 42-44) (emphasis added). Thus, Bajracharya does not disclose a pasta composition of the "warm and serve variety" as claimed. In contrast, the pasta composition of the present invention is of the "warm and serve variety." As specified in the present specification:

> For purposes of this invention, a pasta of the "warm and serve variety" is a pasta product provided in a retail package which needs only to be heated to a suitable serving temperature before consumption. Such a "warm and serve variety" pasta product does not need to be cooked by the consumer since it is already fully cooked when purchased by the consumer. (Specification, page 14, lines 11-15.)

Thus, the Bajracharya product, which requires both rehydration and cooking before it may be consumed, is not a pasta of the "warm and serve variety" as used in

connection with the present invention. In fact, Bajracharya specifically does not disclose such products and states that "[t]he filled pasta of the present invention is not a 'ready to eat' pasta but it requires a short period of cooking and rehydration for consumption" (see Bajracharya, column 1, lines 42-44). Thus, Bajracharya does not disclose a pasta composition of the "warm and serve variety" as claimed.

The secondary references Taylor and Nauth are directed to the use of nisin and nisin-containing whey, respectively, in particular food products. Neither Taylor nor Nauth teach the use of nisin or nisnin-containing whey in pasta products, much less the "fully cooked, fully hydrated, stabilized pasta composition" of the "warm and serve variety" as provided by the present invention. Even if Taylor or Nauth would have made it obvious to one skilled in the art to add nisin or a nisin-containing whey to the pasta of Bajracharya, which Applicants' respectfully submit they do not as neither Taylor nor Nauth contain or provide any suggestion or motivation for doing so, the resulting combination would not have resulted in a "fully cooked, fully hydrated, stabilized pasta composition" which is of the "warm and serve variety" as claimed. Rather, the combination would have yielded a partially dried and partially cooked product similar to the Bajracharya pasta which would still require rehydration and cooking prior to consumption by the consumer. Therefore, the combination of the Bajracharya, Taylor, and Nauth references would not have made the pasta composition as claimed in the present invention obvious to one skilled in the art.

Based on the foregoing, Applicants respectfully submit that Independent Claims 1, 11, and 21 are in condition for allowance.

Claims 2-10 also depend from Claim 1. Thus, Applicants respectfully submit that Claims 2-10 are also in condition for allowance. Claims 12-20 depend from Claim 11. Thus, Applicants respectfully submit that Claims 12-20 are also in condition for allowance. Claims 22-30 depend from Claim 21. Thus, Applicants respectfully submit that Claims 22-30 are also in condition for allowance.

III. CONCLUSION

Based on the foregoing remarks and amendments, Applicants respectfully submit that this application is in condition for allowance.

If the Examiner believes that a telephonic or personal interview would be helpful to terminate any issues which may remain in the prosecution of the Application, the Examiner is requested to telephone the Applicants' attorney at the telephone number set forth herein below. The Commissioner is hereby authorized to charge any additional fees which may be required in the Application to Deposit Account No. 06-1135.

Respectfully submitted,

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